

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF PUERTO RICO
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WILLIAM PEREZ-POLANCO, et. al.,

Plaintiffs,

v.

ANA ALVAREZ-ROBLES, et. al.,

Defendants.

Civil No. 13-1044 (JAF)

5
6 **ORDER AND OPINION**

7 We held a hearing on June 18, 2013, on the issue of diversity jurisdiction. The
8 parties amply discussed the issue on the record and the court received testimony. We
9 find, on the basis of evidence and credibility, that shortly after her 2008 retirement from
10 public employment in New Jersey, defendant Ana Alvarez-Robles and her husband
11 domiciled in Las Piedras, Puerto Rico.

12 Rule 12(b)(1) provides for dismissal where the court lacks jurisdiction over the
13 subject matter of the lawsuit. Lack of subject-matter jurisdiction may be raised at any
14 time either by a litigant or the court. Mansfield, C. & L.M.R. Co. v. Swan, 111 U.S. 379,
15 382 (1884). Here, our jurisdiction depends on the diversity of the parties at the time of
16 filing. Grupo Dataflux v. Atlas Global Group, L.P., 541 U.S. 567, 570 (2004). Since the
17 filing of this complaint in January of 2013, Alvarez-Robles has received utility bills for a
18 home she has owned in Puerto Rico since 1989. While Alvarez-Robles does not drive,
19 her husband has had a Puerto Rico driver's license since 2008. Both Alvarez-Robles and
20 her husband have been registered to vote in Puerto Rico since 2010. Because Alvarez-

1 Robles and her husband are domiciled in Puerto Rico, we conclude that the parties lack
2 diversity.

3 Finally, we see no inconsistency with Ms. Alvarez-Robles having her daughter,
4 who lives in New Jersey, manage her mail from that state on account of Ms. Alvarez-
5 Robles' frequent travels as a retired woman. That New Jersey address is also the address
6 of her daughter, who resides there. We note that as of today, Ms. Alvarez-Robles still
7 keeps her New Jersey-based mobile phone. That is not at all inconsistent with the finding
8 made here. Nowadays, it is common for persons domiciled in Puerto Rico to retain
9 mobile phone services obtained in the States. It is a matter of economics – cheaper rates
10 and permanence of the telephone number.

11 THEREFORE, we **GRANT** Alvarez-Robles' motion to **DISMISS**. (Docket
12 No. 5.)

13 **IT IS SO ORDERED.**

14 San Juan, Puerto Rico, this 19th day of June, 2013.

15 S/José Antonio Fusté
16 JOSE ANTONIO FUSTE
17 U. S. DISTRICT JUDGE